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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yuba)

THE PEOPLE,

Plaintiff and Respondent,

v.

SHAWN DARWIN MICKLE,

Defendant and Appellant.

C081358

(Super. Ct. Nos. CRF14699,
CRF15566)

Appointed counsel for defendant Shawn Darwin Mickle asks this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Finding no arguable error that would result in a disposition more favorable to defendant, we affirm the judgment.

We provide the following brief description of the facts and procedural history of the two underlying cases. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

Case No. CRF14699

Defendant grabbed the victim, his cohabitant, by her sweatshirt, and pushed her into a corner. There he held her, refusing to let her leave.

In exchange for dismissing a corporal injury count and an opportunity to reduce his conviction to a misdemeanor, defendant pleaded guilty to false imprisonment. (Pen. Code, § 236.)¹ He was ordered to complete a 52-week batterers' treatment program. On completion, his conviction would be reduced to a misdemeanor.

Case No. CRF15566

Eleven months later, defendant threw a flashlight at the victim, bruising her stomach. Two days after that, he went shopping with the victim. When an argument started in the parking lot, the victim tried to walk away. Defendant drove after her in his truck. He then got out, grabbed her by her forearms, and pushed her into the backseat. He ignored her requests to leave her alone. He drove off with her but was stopped by law enforcement shortly after.

Defendant pleaded guilty to kidnapping (§ 207, subd. (a); count 1), assault with a deadly weapon (§ 245, subd. (a)(1); count 2), and inflicting corporal injury (§ 273.5; count 4). In exchange, a false imprisonment count was dismissed, and he was released with a waiver pursuant to *People v. Cruz* (1988) 44 Cal.3d 1247. Upon successful completion of the *Cruz* waiver terms, counts 2 and 4 would be dismissed, and he would be sentenced with a middle-term maximum on count 1.

At sentencing, the trial court imposed a five-year eight-month aggregate term: the middle term of five years for kidnapping in case No. CRF15566, and eight months (one-third the middle) for false imprisonment in case No. CRF14699. Finding defendant complied with the terms of the *Cruz* waiver, the court dismissed the remaining counts. The court also awarded a combined 50 days of custody credit and imposed various fines and fees.

¹ Undesignated statutory references are to the Penal Code.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief setting forth the facts of the case and requests that we review the record and determine whether there are any arguable issues on appeal. (*People v. Wende, supra*, 25 Cal.3d 436.) Defendant was advised of his right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we have received no communication from defendant.

Having examined the record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

_____/s/
HOCH, J.

We concur:

_____/s/
HULL, Acting P. J.

_____/s/
MAURO, J.